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5 IN THE UNITED STATES DISTRICT COURT
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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8 NUNEZ, EMMANUEL & ARLEEN,

No. C 11-0081 MMC

9 Plaintiffs,

10 v.

11 BANK OF AMERICA, N.A., et al.,

12 Defendants

**ORDER DENYING AS MOOT
DEFENDANT'S MOTION TO DISMISS;
VACATING HEARING; DIRECTING
PLAINTIFFS TO LODGE CHAMBERS
COPIES IN COMPLIANCE WITH
GENERAL ORDER 45 AND THE
COURT'S STANDING ORDERS**

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14 Before the Court is defendant Bank of America, N.A.'s motion, filed January 14,
15 2011,¹ to dismiss plaintiffs' complaint pursuant to Rules 12(b)(6) of the Federal Rules of
16 Civil Procedure. On February 3, 2011, plaintiffs filed an Amended Complaint.

17 A party may amend a pleading "once as a matter of course within . . . 21 days after
18 service of a motion under Rule 12(b), (e), or (f)." See Fed. R. Civ. P. 15(a). "[A]n amended
19 pleading supersedes the original, the latter being treated thereafter as non-existent."
20 Bullen v. De Bretteville, 239 F. 2d 824, 833 (9th Cir. 1956), cert. denied, 353 U.S. 947
21 (1957).

22 Accordingly, the Court hereby DENIES as moot defendant's motion to dismiss.

23 Plaintiffs have violated General Order 45 and the Court's Standing Orders, however,
24 by failing to deliver to the Clerk's Office "no later than noon on the business day following
25 the day that the papers are filed electronically, one paper copy of each document that is
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28 ¹ The motion initially was noticed for hearing on February 24, 2011. After
reassignment of the action, defendant renoticed the motion for hearing on March 4, 2011.
In light of the ruling herein, the March 4, 2011 hearing is hereby VACATED.

1 filed electronically . . . marked 'Chambers Copy' and . . . clearly marked with the judge's
2 name, case number, and 'Chambers Copy-Do Not File.'" See General Order 45 § VI.G;
3 see also Standing Orders For Civil Cases Assigned to The Honorable Maxine M. Chesney
4 ¶ 2.

5 Plaintiffs are hereby ORDERED to comply with General Order 45 and the Court's
6 Standing Orders by immediately submitting chambers copies of their Amended Complaint.
7 Plaintiffs are hereby advised that if they fail in the future to comply with General Order 45
8 and the Court's Standing Order to provide chambers copies of electronically-filed
9 documents, the Court may impose sanctions, including, but not limited to, striking from the
10 record any electronically-filed document of which a chambers copy has not been timely
11 provided to the Court.

12 **IT IS SO ORDERED.**

13 Dated: February 9, 2011

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15 MAXINE M. CHESNEY
16 United States District Judge
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